

# LAWS AND REGULATIONS RELATING TO

## Licensure as a Private Investigator



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The statutes and regulations provided in this booklet are an *unofficial* version of the Kentucky Revised Statutes and Kentucky Administrative Regulations and are intended for informational purposes only. The official or certified versions of the Kentucky Revised Statutes and Kentucky Administrative Regulations should be consulted for all matters requiring reliance on the statutory text.

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## Kentucky Revised Statutes

### **329A.010 Definitions for KRS 329A.010 to 329A.090.**

As used in KRS 329A.010 to 329A.090:

- (1) "Board" means the Kentucky Board of Licensure for Private Investigators;
- (2) "Company" means a firm, association, sole proprietorship, partnership, corporation, nonprofit organization, institution, or similar enterprise;
- (3) "Investigating company" or "company licensee" means a company engaged in private investigating that is licensed under KRS 329A.010 to 329A.090;
- (4) "Private investigating" means the act of any individual or company engaging in the business of obtaining or furnishing information with reference to:
  - (a) Crime or wrongs done or threatened against the United States or any state or territory of the United States;
  - (b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputations, or character of any person;
  - (c) The location, disposition, or recovery of lost or stolen property;
  - (d) The cause or responsibility for fires, losses, accidents, damages, or injuries to persons or to property;
- (5) "Private investigator" or "individual licensee" means a person who is engaged in private investigating and licensed in accordance with the provisions of KRS 329A.010 to 329A.090; and
- (6) "Qualifying agent" means a principal corporate officer, such as the chief executive officer, president, vice president, treasurer-secretary, comptroller, or any other responsible officer or executive employee, who is designated by the corporation to represent it in matters relating to KRS 329A.010 to 329A.090.

### **329A.015 License required to hold self out as private investigator -- Criminal background check.**

No person or company shall hold himself or herself out to the public as a private investigator or use any terms, titles, or abbreviations that express, infer, or imply that the person is licensed as a private investigator unless the person at the time holds a license to practice private investigating issued and validly existing under the laws of this Commonwealth as provided in this chapter. All applicants shall pass a criminal background check based on criteria established under KRS 329A.035.

### **329A.020 Kentucky Board of Licensure for Private Investigators -- Members -- Appointment -- Vacancies -- Reimbursement -- Meetings -- Removal of members -- Liability insurance.**

- (1) The Kentucky Board of Licensure for Private Investigators is hereby created.
- (2) The board shall consist of seven (7) members appointed by the Governor.
  - (a) One (1) member shall be an attorney from the Office of the Attorney General to be designated by the Attorney General;
  - (b) One (1) member shall be a municipal police officer of the rank of captain or above;
  - (c) One (1) member shall be a county sheriff;
  - (d) Three (3) members shall each have been private investigators for at least five (5) years prior to the date of their appointment and shall be of recognized business standing; and

(e) One (1) member shall be a citizen at large who is not associated with or financially interested in the practice of private investigating.

(3) All members shall be residents of this state and possess good moral character.

(4) The original members of the board shall be appointed by no later than January 1, 2003, as follows:

(a) One (1) member to a one (1) year term;

(b) Two (2) members to a two (2) year term;

(c) Two (2) members to a three (3) year term; and

(d) Two (2) members to a four (4) year term.

(5) After the initial appointments to the board, all members shall serve a two (2) year term.

(6) Any vacancy occurring on the board shall be filled by the Governor.

(7) No member may serve more than two (2) full consecutive terms.

(8) No member shall continue to serve if the member no longer meets the qualifications required under subsections (2) and (3) of this section.

(9) The three (3) board members who are private investigators and the member at large shall receive the sum of one hundred dollars (\$100) per day for each day the board meets. All members shall receive reimbursement for actual and necessary expenses incurred in the performance of their official duties.

(10) The board shall annually elect a chairman, a vice chairman, and a secretary-treasurer from the membership of the board.

(11) The board shall hold at least two (2) meetings annually and additional meetings as the board may deem necessary. Additional meetings may be held upon call of the chairman or upon written request of a quorum. Four (4) members of the board shall constitute a quorum to conduct business.

(12) Upon recommendation of the board, the Governor may remove any member of the board for neglect of duty or malfeasance in office.

(13) The board may purchase professional liability insurance for the board members and agents and staff of the board.

#### **329A.025 Duties and powers of board.**

(1) The board shall administer and enforce the provisions of KRS 329A.010 to 329A.090 and shall evaluate the qualifications of applicants for licensure and issue licenses.

(2) The board shall:

(a) Implement the provisions of KRS 329A.010 to 329A.090 through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A;

(b) Promulgate administrative regulations to establish fees which shall not exceed the amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of KRS 329A.010 to 329A.090;

(c) Promulgate by administrative regulation an examination to be administered at least twice annually to license applicants. The examination shall be designed to measure knowledge and competence in private investigating, including but not limited to the following subject areas:

1. Federal and state constitutional principles;

2. Court decisions related to activities which could result in liability for the invasion of privacy or other activities;

3. Eavesdropping and related offenses, assault and related offenses, search and seizure laws, and laws regarding unlawful access to a computer;

4. General weapons use and concealed weapons laws;

5. Additional state criminal laws and related procedures that are relevant to the practice of private investigating; and

6. Additional subject areas as determined by the board; and

(d) Promulgate by administrative regulation a code of professional practice and conduct that shall be based upon generally recognized principles of professional ethical conduct and be binding upon all licensees.

(3) The board may:

(a) Contract with the Division of Occupations and Professions within the Finance and Administration Cabinet for the provision of administrative services;

(b) Employ any persons it deems necessary to carry on the work of the board. The board may define their duties and fix their compensation;

(c) Develop or sponsor at least six (6) hours of continuing professional education annually;

(d) Approve and certify a forty (40) hour training class covering the subject areas of the licensing examination;

(e) Renew licenses and require continuing professional education as a condition for renewal;

(f) Waive the examination requirement for any applicant licensed in a reciprocal state as prescribed in subsection (3)(m) of this section, who is licensed in good standing in that state and meets all of the other requirements of KRS 329A.035;

(g) Suspend or revoke licenses, impose supervisory or probationary conditions upon licensees, impose administrative disciplinary fines, or issue written admonishments or reprimands, or any combination thereof;

(h) Issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of KRS 329A.010 to 329A.090;

(i) Conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the board's functions;

(j) Organize itself into two (2) panels to separate the functions of inquiry and hearings. Each panel shall have the power to act as either an inquiry or hearing panel. No member serving on the inquiry panel shall serve on the hearing panel for any one (1) particular case. Any final decision of the hearing panel shall be considered as the final decision of the board and the hearing panel may exercise all powers granted to the board pursuant to KRS Chapter 13B;

(k) Utilize mediation as a technique to resolve disciplinary matters;

(l) Seek injunctive relief in the Circuit Court of the county where the alleged unlawful practice occurred to stop the unlawful practice of private investigating by unlicensed persons or companies; and

(m) Negotiate and enter into reciprocal agreements with appropriate officials in other states to permit licensed investigation companies and private investigators who meet or exceed the qualifications established in KRS 329A.010 to 329A.090 to operate across state lines under mutually acceptable terms.

### **329A.030 Revolving fund.**

(1) All fees and other moneys received by the board pursuant to the provisions of KRS 329A.010 to 329A.090 shall be deposited in the State Treasury to the credit of a revolving fund for the use of the board.

(2) No part of this revolving fund shall revert to the general fund of this Commonwealth.

(3) The revolving fund may be used to pay for:

(a) The compensation and reimbursement of board members for actual and necessary expenses incurred in the performance of official duties; (b) The compensation of all of the employees of the board; (c) Those operational and capital expenses incurred in fulfilling the board's duties as described in KRS 329A.010 to 329A.090 and in administrative regulations; and

(d) The development or sponsorship of at least six (6) hours of continuing education courses annually, to be conducted in various areas of the state.

**329A.035 Applications for licenses -- Requirements -- Confidentiality.**

(1) An application for a private investigator license shall be filed with the board on the prescribed form.

(a) The application shall include the following information regarding the applicant:

1. Full name and address;
2. Date and place of birth;
3. Social Security number;
4. All residences during the past five (5) years;
5. All employment or occupations engaged in during the past five (5) years;
6. Three (3) sets of classifiable fingerprints; and

7. Any other information as the board may reasonably require by administrative regulation.

(b) The application shall be subscribed and sworn to by the applicant.

(c) If the applicant intends to conduct fire or arson investigations, proof of current national certification from the National Association of Fire Investigators or the International Association of Arson Investigators shall be filed with the board in addition to the information required in paragraph (a) of this subsection.

(2) An application for an investigating company license shall be filed with the board on the prescribed form.

(a) The application shall include:

1. The information required in subsection (1)(a) of this section for:

- a. The owner, if the company is a sole proprietorship;
- b. Each partner, if the company is a partnership; or
- c. The qualifying agent, if the company is a corporation;

2. The name under which the company intends to do business;

3. The address of the principal place of business and any branch offices of the company within this state; and

4. Other information as the board may reasonably require by administrative regulation.

(b) If the company is a corporation, the following information is also required:

1. The correct legal name of the corporation;

2. The state and date of incorporation;

3. The date the corporation qualified to do business in this state;

4. The address of the corporate headquarters, if located outside of this state;

5. The names of two (2) principal corporate officers other than the qualifying agent, their business addresses, residence addresses, and the office held by each in the corporation; and

6. The identity and license number of all private investigators employed by or affiliated with the company.

(c) The application shall be subscribed and sworn to by:

1. The owner, if the applicant is a sole proprietorship;

2. Each partner, if the applicant is a partnership; or

3. The qualifying agent, if the applicant is a corporation.

(3) Each applicant for an individual license or owner, partner, or qualifying agent for a company license shall:

(a) Be at least twenty-one (21) years of age;

(b) Be a citizen of the United States or a resident alien;

(c) Have a high school education or its equivalent;

(d) Not receive a license until the earlier of:

1. The expiration of ten (10) years from the applicant's release from a sentence imposed by any state or territory of the United States or the federal government for the commission of a felony, including a sentence of confinement or time served on probation, parole, or other form of conditional release or discharge; or

2. The date the applicant received a restoration of the applicant's civil rights;

(e) Not have been convicted of a misdemeanor involving moral turpitude or for which dishonesty is a necessary element within the previous five (5) years;

(f) Not have been dishonorably discharged from any branch of the Armed Forces of the United States;

(g) Not have had his or her certification as a peace officer revoked in this or another state;

(h) Not have been declared by any court of competent jurisdiction to be incompetent by reason of mental defect or disease unless a court of competent jurisdiction has since declared the applicant to be competent;

(i) Not have been voluntarily or involuntarily committed to a facility or outpatient program for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances within the three (3) year period immediately preceding the date on which the application is submitted;

(j) Not chronically and habitually use alcoholic beverages as evidenced by:

1. The applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) year period immediately preceding the date on which the application is submitted; or

2. The applicant having been committed as an alcoholic pursuant to KRS Chapter 222, or similar laws of any other state, within the three (3) year period immediately preceding the date on which the application is submitted;

(k) Not chronically and habitually use alcoholic beverages or drugs to the extent that his or her normal faculties are impaired;

(l) Be of good moral character;

(m) Pass an examination administered by the board in accordance with KRS 329A.025(2(c)); and

(n) Submit proof of coverage which meets the following requirements:

1. Is written by an insurance company which is lawfully engaged to provide insurance coverage in Kentucky;

2. Provides for a combined single-limit policy in the amount of at least two hundred fifty thousand dollars (\$250,000); and

3. Insures for liability all of the applicant's employees while acting in the course of their employment. Private investigators who limit their practice exclusively to working under the supervision and as employees of an attorney who is licensed to practice law in this state are exempted from the requirement of this paragraph.

(4) The board shall maintain the confidentiality of information relating to the licensee or applicant, except that the board may provide this information to local, state, or federal law enforcement agencies.

(5) Upon inquiry by any individual or entity, the board or the board's administrative staff shall provide or confirm the license status of any private investigator or private investigating company.

#### **329A.040 Board's duties upon receipt of application -- Approval -- License and identification card -- Individual license.**

(1) Upon receipt of a license application, accompanied by a nonrefundable, nonproratable fee of not less than one hundred dollars (\$100) and not more than four hundred dollars (\$400), as established by the board by promulgation of administrative regulations, the board shall:

(a) Conduct an investigation to determine whether the statements made in the application are true; and

(b) Submit the application, including fingerprints as appropriate, to the Kentucky State Police and the Administrative Office of the Courts for a state criminal history background check. The Kentucky State Police may submit fingerprints of any applicant to the Federal Bureau of Investigation for a national criminal history background check. The board may by administrative

regulation impose additional qualifications to meet the requirements of Pub. L. No. 92-544. The applicant for licensure shall bear the additional cost, in an amount not to exceed the actual cost, incurred for the criminal background check.

(2) Following the investigation process, the board shall either deny or approve the application.

(a) If the application for a license is denied, the board:

1. Shall notify the applicant in writing and set forth the grounds for denial. If the grounds are subject to correction by the applicant, the notice of denial shall so state and specify a reasonable period of time within which the applicant must make the correction; and

2. Shall grant a hearing to the denied applicant in accordance with the provisions of KRS Chapter 13B.

(b) If the application for a license is approved, the board shall issue:

1. A license to be posted conspicuously in the licensee's principal place of business; and

2. A wallet-sized laminated identification card to each individual licensee to be carried while engaged in private investigation. Information on the card shall include the expiration date of the license and the licensee's:

a. Name;

b. Photograph;

c. Physical characteristics; and

d. License number.

(3) A license or identification card issued under subsection (2) of this section is not assignable and is personal to the licensee.

(4) For purposes of this section and KRS 329A.035, any company whose workforce is comprised of no more than one (1) private investigator shall only be required to have an individual private investigator's license. If at any time the workforce of such a company increases, the company shall notify the board of the workforce increase and shall seek a company license in addition to the individual private investigator's license.

**329A.045 Renewal -- Fee -- Grace period -- Termination and reinstatement -- Revocation -- Evidence of continuing education -- Inactive status.**

(1) A license or renewal issued under KRS 329A.010 to 329A.090 shall be valid for two (2) years from the date of issuance. No later than May 1 in the license renewal year, the board shall send a renewal application form to the address on file for each licensee. The renewal application shall indicate if the licensee is required to submit passport-sized photographs for a new identification card.

(2) All renewal applications shall be received by the board on or before June 30 in the year of renewal.

(3) Each company license renewal shall include a notarized statement sworn to by the representative prescribed in KRS 329A.035(2)(c) stating the identity and license number of each private investigator employed by or affiliated with the company.

(4) The fee for the timely renewal of a license shall be not less than fifty dollars (\$50) and not more than two hundred fifty dollars (\$250), as established by the board by promulgation of administrative regulations.

(5) For individual licensees, the board shall, at its discretion, issue either a new identification card or a renewal stamp or sticker to be affixed to the existing card.

(6) A grace period shall be allowed until September 1 of the license renewal year, during which time licensees may continue to practice and may renew their licenses upon payment of the renewal fee plus a late fee as promulgated by administrative regulation of the board.

(7) All licenses not renewed by September 1 of the renewal year shall terminate based on the failure to renew in a timely manner. Upon termination, the licensee is no longer eligible to practice in this state.

(8) After September 1 of the renewal year, former licensees with a terminated license may



have their licenses reinstated upon payment of the renewal fee plus a reinstatement fee as promulgated by administrative regulation of the board. If the reinstatement application is made within five (5) years from the date of termination, applicants shall not be required to submit to any examination as a condition for reinstatement.

(9) A revoked license may not be renewed. If it is reinstated, the licensee shall pay the reinstatement fee as set forth in subsection (8) of this section and the renewal fee as set forth in subsection (4) of this section.

(10) A former licensee who fails to reinstate a license within five (5) years after termination may not have it renewed, restored, or reinstated. A person may apply for and obtain a new license by meeting the current requirements for licensure.

(11) The board may require that a person applying for a renewal or reinstatement of licensure show evidence of completion of continuing professional education as prescribed by the board in administrative regulations.

(12) A valid license may be put on inactive status by the licensee at the time of renewal, at a cost to be determined by the board.

#### **329A.050 Change of ownership -- Agent who ceases to perform duties.**

(1) If the ownership of an investigating company changes, the new owner, if not already a licensee, shall not operate that company more than thirty (30) days after the date of the ownership change unless, within the thirty (30) day period, the new owner submits an application for a license.

(a) If the application is submitted, the new owner may continue to operate the company until the application has been finally determined by the board.

(b) The board may extend for a reasonable time the period for submitting an application under this subsection.

(2) If the qualifying agent of a company ceases to perform the duties of an agent on a regular basis, the licensee shall notify the board by certified or registered mail within thirty (30) days and substitute a new qualifying agent within ninety (90) days. The board may extend for a reasonable time the period for obtaining a substitute qualifying agent.

#### **329A.055 Prohibited acts.**

No licensee shall:

(1) Use a badge for identification or make any statement which would reasonably cause another person to believe that the licensee functions as a sworn peace officer or other official of the state, any of its political subdivisions, or an agency of the federal government;

(2) Divulge to anyone, other than his or her client, or to such persons as his or her client may direct, or as may be required by law, any information acquired during such employment that may compromise the client, the person who is the subject of the investigation, or the investigation to which the licensee has been assigned;

(3) Knowingly make a material misrepresentation as to his or her ability to perform the investigation required by a potential client in order to obtain employment;

(4) Knowingly make a material misrepresentation to the client regarding the investigation; or

(5) Continue an investigation for a client when it becomes obvious to the licensee that a successful completion of an investigation is unlikely, unless the licensee advises the client and obtains the client's approval for continuation of the investigation.

#### **329A.060 Investigation of licensee wrongdoing -- Hearing -- Admonishment.**

(1) The board may investigate allegations of licensee wrongdoing upon complaint or upon its own volition. The board shall promulgate administrative regulations regarding the receiving and investigating of complaints.

(2) If the board's investigation reveals evidence supporting the complaint, the board shall set the matter for hearing pursuant to the provisions of KRS Chapter 13B before suspending, revoking, imposing probationary or supervisory conditions or an administrative fine, issuing a written reprimand, or any other combination of actions regarding any license under the provisions of KRS 329A.010 to 329A.090.

(3) If, after an investigation that includes an opportunity for the licensee to respond, the board determines that a violation took place but was not of a serious nature, it may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the board's permanent licensure file. The licensee shall have the right to file a response to the admonishment within thirty (30) days of its receipt and to have that response placed in the board's permanent licensure file. The licensee may, within thirty (30) days of receipt, file a request for hearing with the board. Upon receipt of this request the board shall set aside the written admonishment and set the matter for hearing under the provisions of KRS Chapter 13B.

**329A.065 Disciplinary actions -- Civil penalty -- Permanent file -- Assurance of voluntary compliance -- Appeal.**

(1) The board may refuse to issue a license, or suspend, revoke, impose probationary conditions, impose an administrative fine, issue a written reprimand, or any combination thereof regarding any licensee upon proof that the licensee or applicant has:

(a) Violated any provision of KRS 329A.010 to 329A.090 or any administrative regulation promulgated by the board;

(b) Knowingly and willfully made a material misstatement in connection with an application for license or renewal;

(c) Been convicted of a felony;

(d) Practiced fraud, deceit, or misrepresentation;

(e) Committed any act that would have been cause for refusal to issue the license had it existed and been known to the board at the time of issuance;

(f) Been incompetent or negligent in the practice of private investigating; or

(g) Violated the code of ethics promulgated by administrative regulation by the board.

(2) In addition to or in lieu of any other lawful disciplinary action under this section, the board may assess a civil penalty not exceeding two thousand dollars (\$2,000).

(3) When the board issues a written reprimand to the licensee a copy of the reprimand shall be placed in the permanent file of the licensee. The licensee shall have the right to submit a response within thirty (30) days of its receipt and to have that response filed in the permanent file.

(4) At any time during the investigative or hearing processes, the board may accept an assurance of voluntary compliance from the licensee if the assurance effectively deals with the complaint.

(5) The board may reconsider, modify, or reverse its probation, suspension, or other disciplinary action.

(6) Any party aggrieved by a disciplinary action of the board may bring an action in Franklin Circuit Court pursuant to the provisions of KRS Chapter 13B.

(7) A license shall be subject to expiration and renewal during any period in which the license is suspended.

**329A.070 Scope of KRS 329A.010 to 329A.090.**

The provisions of KRS 329A.010 to 329A.090 do not apply to:

(1) An officer or employee of the United States, this state, another state, or any political subdivision thereof, performing his or her official duties within the course and scope of his or her employment;

(2) A public accountant, certified public accountant, or the bona fide employee of either, performing duties within the scope of public accountancy;

(3) A person engaged exclusively in the business of obtaining and furnishing information regarding the financial rating or standing and credit of persons;

(4) An attorney-at-law, or an attorney's bona fide employee, performing duties within the scope of the practice of law or authorized agent with duties limited to document and record retrieval or witness interviews;

(5) An insurance company, licensed insurance agent, or staff or independent adjuster if authorized to do business in Kentucky, performing investigative duties limited to matters strictly pertaining to an insurance transaction;

(6) A person engaged in compiling genealogical information, or otherwise tracing lineage or ancestry, by primarily utilizing public records and historical information or databases;

(7) A private business employee conducting investigations relating to the company entity by which he or she is employed;

(8) An individual obtaining information or conducting investigations on his or her own behalf;

(9) An employee of a private investigator or a private investigating firm who works under the direction of the private investigator or the private investigating firm for less than two hundred forty (240) hours per year. The board shall promulgate administrative regulations to establish a method of verification of the number of hours worked; or

(10) A professional engineer, a professional land surveyor, or a professional engineer's or professional land surveyor's bona fide employee, performing duties within the scope of practice of engineering or land surveying.

#### **329A.075 Notification of board.**

(1) A licensee shall notify the board in writing within thirty (30) days of:

(a) Any material change in the information previously furnished or required to be furnished to the board;

(b) Any occurrence that could reasonably be expected to affect the licensee's right to a license under KRS 329A.010 to 329A.090, including but not limited to any criminal charges placed against the licensee or employees of the licensee;

(c) Any change in insurance coverage required under KRS 329A.035; and

(d) Any claims, judgments, or settlements against the licensee, the licensee's employees, or the licensee's insurance company.

(2) An investigative company shall notify the board in writing within thirty (30) days of any criminal charges filed against an investigator employed by or affiliated with the company.

#### **329A.080 Penalty for violation of KRS 329A.015.**

Any person violating KRS 329A.015 shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for a second or subsequent offense.

#### **329A.085 Legislative intention to occupy field.**

The General Assembly intends, by the provisions of this chapter, to occupy the entire field of regulation and licensing of private investigators. No cities, counties, urban-county governments, charter counties, consolidated local governments, or other political subdivisions of the Commonwealth may adopt or continue in effect any ordinance, resolution, regulation, or rule regarding the regulation of private investigators. Nothing in this section shall be construed to abrogate any authority afforded by this chapter to the Kentucky Board of Licensure of Private Investigators.

#### **329A.090 Short title for KRS 329A.010 to 329A.090.**

KRS 329A.010 to 329A.090 may be cited as the Kentucky Private Investigators Licensing Act.

**329A.095 Licensure and certification for private investigators conducting fire or arson investigations.**

(1) Any private investigator who conducts fire or arson investigations in the state of Kentucky shall be:

(a) Licensed in accordance with KRS 329A.025; and

(b) Certified by the National Association of Fire Investigators or the International Association of Arson Investigators as a fire and explosion investigator.

(2) Upon revocation of his or her certification by either the National Association of Fire Investigators or the International Association of Arson Investigators, a private investigator who conducts fire or arson investigations shall cease the practice of fire or arson investigation.

(3) Fire or arson investigation by a licensee under this chapter shall be prohibited without certification.

## **Administrative Regulations**

### **201 KAR 41:020. Application for licensure.**

RELATES TO: KRS Chapter 61, 329A.035, 329A.040(1), 329A.065(1), 28 C.F.R. 16.3345, 164.512(a), (d), (e)

STATUTORY AUTHORITY: KRS 329A.025(1), 329A.035,

NECESSITY, FUNCTION, AND CONFORMITY: KRS 329A.025(1) requires the Kentucky State Board of Licensure for Private Investigators to evaluate the qualification of candidates for licensure as private investigators and private investigating companies. KRS 329A.035 establishes application requirements for private investigators and private investigation companies. This administrative regulation establishes the application requirements and process for licensure.

Section 1. Application for Individual Private Investigator License. (1) A person who has met the qualifications established in KRS 329A.035 may submit to the board the Private Investigator Application and Applicant Instructions.

(2) With a sworn and notarized application, the applicant shall submit to the board:

(a) The initial application fee established in 201 KAR 41:040, Section 1, which shall be nonrefundable;

(b) Two (2) 2 in. x 2 in. color passport-style photographs;

(c) A check or money order made payable to the "Kentucky State Treasurer" for the criminal background check and fingerprint fee; and

(d) Authorization for release of medical, psychological, and, if applicable, records pursuant to the requirements of KRS 329A.035(3)(e)-(l).

(e) The applicant shall contact the Division of Occupations and Professions for the combined amount of state and federal fees, pursuant to 502 KAR 30:060 and 28 C.F.R. 16.33.

Section 2. Application for Company Private Investigator License. (1) Owners, partners, or qualifying agents of companies who have met the qualifications established in KRS 329A.035, may submit the Private Investigator Company Application and Applicant Instructions.

(2) With the application sworn by the individual applicant; each partner, if the applicant is a partnership; or the qualifying agent, and notarized, the applicant shall submit:

(a) The initial application fee established in 201 KAR 41:040, Section 2, which shall be nonrefundable; and

(b) A check or money order made payable to the "Kentucky State Treasurer" for the criminal background check and fingerprint fee.

(c) A list of all private investigators employed by the company and a "proof of affiliation" letter for each private investigator.

(d) The applicant shall contact the Division of Occupations and Professions for the combined amount of state and federal fees, pursuant to 502 KAR 30:060 and 28 C.F.R. 16.33.

Section 3. Status Change. (1) A licensee, applicant, or private investigation company shall notify the board in writing within thirty (30) days of a change in company affiliation, business address, residence address, or phone number during the application process and after license issuance.

(2)(a) A private investigation company shall notify the board in writing within thirty (30) days of a change in company affiliation or upon the death or termination of a private investigator working for that company.

(b) If a private investigator's employment is terminated, the private investigation company employer shall state within thirty (30) days of the termination the reason for the termination.

Section 4. Application Processing. (1) The average processing time for an application is two (2) to three (3) months.

(2) Failure to respond to correspondence during the application processing period may delay the application.

(3)(a) An application on file with the board for more than six (6) months shall be placed in "inactive status".

(b) If a license is sought for an application in "inactive status", a new application and fee shall be required.

(4) Licensure fees not paid within thirty (30) days of the request or application shall result in closure of the application without further notice.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Private Investigator Application and Applicant Instructions", 10/2008 edition; and

(b) "Private Investigator Company Application and Applicant Instructions", 10/2008 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Licensure for Private Investigators, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (32 Ky.R. 2388; 33 Ky.R. 727; eff. 10-6-2006; 35 Ky.R. 620; 1442; eff. 1-5-2009.)

#### **201 KAR 41:030. Examination.**

RELATES TO: KRS 329A.025(2)(c), 329A.035(3)(m)

STATUTORY AUTHORITY: KRS 329A.025(2)(c), 329A.035(3)(m)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 329A.025(2)(c) requires the board to promulgate administrative regulations creating an examination for private investigator applicants. This administrative regulation establishes the examination for private investigator applicants.

Section 1. Definitions. (1) The written examination shall be called the "Kentucky Private Investigator Examination".

(2) The exam shall be developed and administered by a board-approved examination service pursuant to a contractual agreement.

(3) The exam shall be administered by computer and provided at locations within the Commonwealth of Kentucky, to be determined by the contractor at least twice annually.

(4) The examination shall be structured and designed to measure the subject areas outlined in KRS 329A.025(2)(c).

(5) The examination passing score shall be determined and set by the board in consultation with the examination contractor.

Section 2. General Requirements. (1) An applicant for examination shall:

(b) Pay the applicable application fee established in 201 KAR 41:040(1)(a); and

(c) Pay the examination fee directly to the examination service.

(2) Once the application has been approved by the board, the applicant shall sit for the examination within sixty (60) days of the date on the authorization-to-test letter, sent from the board.

(3) An applicant may sit for the examination at any approved examination contractor testing center or via any contractor and board-approved electronic testing method.

(4) Failure to take the examination within sixty (60) days of the authorization-to-test date shall lead to a forfeit of application fees and necessitate a reapplication to the board.

(1) An applicant shall have six (6) months from the application approval date by the board to tender a passing exam score to the board. Failure to pass the examination within the six (6) month period requires a new application to the board.

## **201 KAR 41:040. Fees.**

RELATES TO: KRS 329A.025, 329A.040(1)(b), 329A.045(4)

STATUTORY AUTHORITY: KRS 329A.025(2)(b), 329A.040(1)(b), 329A.045(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 329A.025(2)(b) requires the board to establish fees associated with the licensure of private investigators and private investigating companies. 329A.040(1)(b) requires the board to establish an application fee for licensure and for state criminal history background checks. KRS 329A.045(4) requires the board to establish a license renewal fee. This administrative regulation establishes the application and related fees, the licensure renewal fees, and the fee procedure for the licensure examination.

Section 1. Application Fees for Licensure as a Private Investigator. An applicant for licensure as a private investigator shall submit the following fees to the board:

(1)(a) The initial application fee for licensure as a private investigator shall be \$400.

(b) The fee shall be submitted to the board as follows:

1. \$100 at the time of application; and

2. \$300 after the application has been reviewed and approved by the board; and

(2)(a) The fee for the criminal history, background check, and fingerprinting shall be remitted to the Kentucky State Treasurer in an amount pursuant to 502 KAR 30:060 and 28 C.F.R. 16.33.

(b) Contact the Division of Occupations and Professions for fee amount or check the board's Web site at <http://finance.ky.gov/ourcabinet/caboff/OAS/op/privinve>.

Section 2. Application Fees for Licensure as a Private Investigator Company. (1) The initial application fee for licensure as a private investigator company shall be:

(a) \$100 for a sole proprietorship; or

(b) \$400 for a firm, association, partnership, corporation, nonprofit organization, or institution.

(2) The initial application fee shall be submitted at the time of application.

Section 3. Examination Fee. (1) The examination fee shall be the actual amount charged by the examination service for the examination pursuant to a contractual agreement with the board.

(2) The examination fee shall be paid directly to the examination service.

Section 4. Biennial Renewal License Fee. (1) The fee for renewal of a private investigator license shall be \$250.

(2) The fee for renewal of a private investigating company license shall be \$250.

Section 5. Late Renewal Fee. (1)(a) The fee for late renewal of a private investigator license, submitted for renewal between July 1 and August 31, shall be \$250.

(b) The late renewal fee shall be in addition to the license renewal fee established in Section 4(1) of this administrative regulation, for a total of \$500.

(2)(a) The fee for late renewal of a private investigating company license, submitted for renewal between July 1 and August 31, shall be \$250.

(b) The late renewal fee shall be in addition to the license renewal fee established in Section 4(2) of this administrative regulation for a total of \$500.

Section 6. Reinstatement Fee. (1)(a) The fee for reinstatement of a private investigator's license terminated pursuant to KRS 329A.045(8) shall be \$100.

(b) The reinstatement fee shall be in addition to the license renewal fee established in Section 4(1) of this administrative regulation and the late renewal fee established in Section 5(1) of this administrative regulation for a total of \$600.

(2)(a) The fee for reinstatement of a private investigating company license terminated pursuant to KRS 329A.045(8) shall be \$100.

(b) The reinstatement fee shall be in addition to the license renewal fee established in Section 4(2) of this administrative regulation and the late renewal fee established in Section 5(2) of this administrative regulation for a total of \$600.

Section 7. Inactive Status Fee. (1) The fee for placing a license in inactive status shall be \$100.

(2) The fee for renewal of a license in inactive status shall be \$100.

(3) The fee to reactivate an inactive license shall be \$250.

Section 8. Duplicate License Fee. The fee for a duplicate license or certificate shall be twenty-five (25) dollars.

Section 9. Continuing Education Program Application Fee. (1) The annual fee for an application for approval of a continuing education program shall be fifty (50) dollars.

(2) The fee shall be applicable to all continuing education providers except those who do not require board approval pursuant to 201 KAR 41:070, Section 3(1). (30 Ky.R. 772; 1207; eff. 12-5-2003; 35 Ky.R. 622; 1443; eff. 1-5-2009.)

#### **201 KAR 41:060. Renewal and reinstatement procedures.**

RELATES TO: KRS 164.772, 329A.045(1)-(3), (8), (11)

STATUTORY AUTHORITY: KRS 329A.025(2)(a), (3)(e)

NECESSITY, FUNCTION AND CONFORMITY: KRS 329A.025(3)(e) states that the board may renew licenses. KRS 329A.025(2)(a) requires the board to implement the provisions of KRS 329A.010 to 329A.090 through the promulgation of administrative regulations. This administrative regulation provides directions for the biennial renewal of these licenses.

Section 1. An individual private investigator license shall be renewed upon:

(1) Payment of the biennial renewal fee established in 201 KAR 41:040, Section 4(1); and

(2) Submission of a completed PI Individual License Renewal Form with the following written information to the board:

(a) Documentation of completion of continuing professional education requirements during the licensure renewal period established in 201 KAR 41:070;

(b) Written confirmation that, since the license was issued or renewed, the licensee has not:

1. Been convicted of a felony;

2. Had the license disciplined and is not currently under disciplinary review in Kentucky or another state; or

3. Defaulted on the repayment obligation of financial aid programs administered by the Kentucky Higher Education Assistance Authority (KHEAA) per KRS 164.772 or on the repayment obligation of financial aid programs administered by any other state or federal agency; and

(c) 1. Documentation of proof of continuous insurance coverage for the entire licensure period.

2. Copies of the certificate of liability insurance shall be submitted along with the renewal application.

Section 2. A licensee convicted of a felony or disciplined in the interim period between issuance and renewal of the license, or between renewal periods, shall submit notice of conviction or discipline along with a written explanation to the board prior to license renewal.



Section 3. If payment and complete information are not received by the board on or before September 1 of the renewal year, the license shall terminate and the person shall not work as a private investigator in Kentucky.

Section 4. Company License Renewal. Private investigation companies who want to renew their licenses shall submit a completed PI Company License Renewal Form and comply with the provisions of KRS 329A.045(3).

Section 5. A terminated license shall be reinstated, if the applicant submits:

(1) A completed Application for Reinstatement form within five (5) years of the termination date;

(2)(a) Evidence of receiving twelve (12) hours of continuing education within the two (2) year period immediately preceding the date that reinstatement is requested; or

(b)1. Evidence of receiving six (6) hours of continuing education within the first six (6) months of reinstatement of licensure.

2. Failure to obtain six (6) hours within six (6) months shall result in termination of licensure.

3. This requirement is in addition to the continuing education requirements for licensure renewal established in 201 KAR 41:070; and

(3) Payment of renewal and reinstatement fees set forth in 201 KAR 41:040.

Section 6. A license previously revoked as a disciplinary action shall be considered for reinstatement as follows:

(1) An applicant for reinstatement shall:

(a) Submit to the board fifteen (15) days prior to the next scheduled meeting, a letter:

1. Requesting reinstatement; and

2. Specifying the manner in which the applicant for reinstatement has complied with the terms of a disciplinary order of the board, if applicable;

(b) Meet the requirements established in Section 5(2) of this administrative regulation; and

(c) Pay of renewal and reinstatement fees as established in 201 KAR 41:040.

(2) Upon receipt of an Application for Reinstatement, the board shall:

(a) Review the request for reinstatement and the Final Order; and

(b) Affirm or deny the request; or

(c) State in writing the corrective or remedial education, training, or review required before reinstatement shall be granted.

(3) The board shall not consider a request for reinstatement submitted to the board prior to the end of a revocation period.

Section 7. (1) An applicant whose request for reinstatement is denied may file a written request for a hearing before the board within thirty (30) days of the letter denying reinstatement.

(2) A hearing held pursuant to the provisions of this section shall be conducted in accordance with KRS Chapter 13B.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "PI Company License Renewal Form", 2008 Edition;

(b) "PI Individual License Renewal Form", 2008 Edition; and

(c) "Application for Reinstatement ", 2008 Edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Board of Licensure for Private Investigators, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (32 Ky.R. 2389; 33 Ky.R. 727; eff. 10-6-2006; 35 Ky.R. 624; 1444; eff. 1-5-2009.)

#### **201 KAR 41:065. Inactive status.**

RELATES TO: KRS 329A.010(4), 329A.015, 329A.025, 329A.080

STATUTORY AUTHORITY: KRS 329A.025(3)(e), 329A.045(12)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 329A.025(3)(e) authorizes the board to renew licenses and consider requiring continuing education as a condition for renewal. KRS 329A.045(12) authorizes that a valid license may be put on inactive status by the licensee at the time of renewal at a cost to be determined by the board. This administrative regulation establishes the requirements for inactive licensure status, fee payment, and continuing education.

Section 1. Inactive licensure status shall be granted to a licensee upon written request to the board at the time of renewal in accordance with KRS 329A.045(12) and upon completion of the Renewal Application Form as referenced in 201 KAR 41:060.

(1) A licensee who is placed on inactive status shall not advertise or perform any of the duties established in KRS 329A.010(4), or hold himself out as a private investigator in violation of KRS 329A.015.

(2) An inactive licensee shall not display the license during the period of inactive licensure.

(3) The identification card shall be returned to the board office within ten (10) days of acknowledgement of inactive status by the board.

(4)(a) Violation of the inactive status shall subject the licensee to the penalties associated with KRS 329A.080; and

(b) The licensee could be subject to action pursuant to KRS 329A.025(3)(g).

(5) The licensee shall pay the fee for placing the license in inactive status established in 201 KAR 41:040, Section 7.

(6) The licensee shall be required to meet the requirements for continuing education as established in 201 KAR 41:070, Section 10.

(7) The inactive licensee shall be required to either affirm the inactive status or request a return to active licensure each renewal cycle.

Section 2. The licensee may return to active status upon:

(1) Written notification to the board;

(2) Payment of the fee established in 201 KAR 41:040, Section 7; and

(3) Providing proof of compliance with all continuing education requirements as established in 201 KAR 41:070, Section 10. (35 Ky.R. 679; Am. 1445; eff. 1-5-2009.)

#### **201 KAR 41:070. Continuing professional education requirements.**

RELATES TO: KRS 329A.025, 329A.045(11)

STATUTORY AUTHORITY: KRS 329A.025(2)(a), (3)(e), 329A.045(11)

NECESSITY, FUNCTION AND CONFORMITY: KRS 329A.025(3)(e) authorizes the board to renew licenses and require continuing professional education as a condition for renewal. KRS 329A.025(2)(a) authorizes the board to implement the provisions of KRS 329A.010 to 329A.090 through the promulgation of administrative regulations. This administrative regulation establishes the requirements for continuing education and prescribes methods and standards for the accreditation of continuing education courses.

Section 1. Definitions. (1) "Approved" means recognized by the Kentucky Board of Licensure for Private Investigators.

(2) "Continuing education hour" means fifty (50) clock minutes of participating in a continuing professional education experience.

(3) "Program" means an organized learning experience:

- (a) Planned and evaluated to meet behavioral objectives; and
- (b) Presented in one (1) session or in a series.
- (4) "Provider" means an organization approved by the Kentucky Board of Licensure for Private Investigators for providing continuing professional education programs.

Section 2. Accrual of Continuing Education Hours; Computation of Accrual. (1) A minimum of twelve (12) continuing education hours shall be accrued by each person holding licensure during the two (2) year licensure period for renewal.

- (2) All hours shall be in or related to the field of private investigation.

Section 3. Methods of Acquiring Continuing Education Hours. (1) Continuing education hours applicable to the renewal of the license shall be directly related to the professional growth and development of a licensed private investigator.

- (2) They shall be earned by completing any of the following educational activities:

(a) Programs not requiring board review and approval. A program provided or approved or sponsored by any of the following providers, shall be deemed to be relevant to the practice of private investigation and shall be approved without further review by the board:

1. Kentucky Professional Investigators Association (KPIA);
2. Kentucky Society of Professional Investigators (KSPI);
3. Association of Certified Fraud Examiners;
4. Association One;
5. National Fire or Arson Certification Associations;
6. State and local bar associations; and
7. Continuing education programs approved by other state licensure boards;

(b)1. A general education course, or elective designated to meet undergraduate or postgraduate degree requirements, shall be acceptable for continuing education credit if the board determines it to be relevant to the field of private investigation.

2. Academic credit equivalency for continuing education hours shall be based on one (1) credit hour equaling twelve (12) continuing education hours; and

(c) Programs requiring board review and approval. A program from any of the following sources shall be reviewed by the board and determined whether it complies with the requirements of Section 4(2) of this administrative regulation:

1. A program, including a home study course and in-service training provided by an organization or education institution not listed in subsection (1) of this section;
- 2.a. A program or academic course presented by the licensee.
- b. A presenter of a relevant program or academic course shall earn two (2) continuing education hours for each contact hour of instruction.
- c. Credit shall not be issued for repeated instruction of the same course; or
- 3.a. A relevant publication in a professionally recognized or juried publication.
- b. Continuing education hours shall be granted for relevant publications subject to review and approval by the board.

Section 4. Procedures for Preapproval of Continuing Education Programs. (1)(a) A continuing education provider seeking to obtain approval of a continuing education program prior to its offering shall apply to the board at least sixty (60) days in advance of the commencement of the program and shall provide the information required in Section 5 of this administrative regulation.

- (b) An approved program fee shall be paid as established in 201 KAR 31:040, Section 9.

(2) A continuing education activity shall be qualified for approval if the board determines the activity:

- (a) Is an organized program of learning;
- (b) Pertains to subject matter relating to private investigation;

- (c) Enhances the professional competence of the licensee by:
  - 1. Refreshing the licensee's knowledge and skills; or
  - 2. Educating on a new topic or subject; and
- (d) Is conducted by a competent instructor, as documented by academic training, professional licensures or certification, or professionally recognized experience.

Section 5. Procedures for Approval of Continuing Education Programs. (1) A course that has not been preapproved by the board may be used for continuing education if approval is secured from the board by the continuing education provider.

- (2) The following information shall be submitted for board review of a program:
  - (a) A published course or seminar description;
  - (b) The name and qualifications of the instructor;
  - (c) A copy of the program agenda indicating hours of education, coffee, and lunch breaks;
  - (d) Number of continuing education hours requested;
  - (e) Official certificate of completion or college transcript from the sponsoring agency or college;
  - (f) Application for continuing education credits approval; and
  - (g) Approval will be for one (1) year from date of approval.

Section 6. Responsibilities and Reporting Requirements of Licensees. (1)(a) During the licensure renewal period, the board shall require up to fifteen (15) percent of all licensees to furnish documentation of the completion of the appropriate number of continuing education hours.

(b) All copies of documentation submitted to the board shall be returned to the licensee upon completion of the audit process via regular U.S. mail, first class, postage prepaid.

(c) Verification of continuing education hours shall not otherwise be reported to the board.

(2) A licensee shall:

- (a) Be responsible for obtaining required continuing education hours;
- (b) Identify continuing education needs and seek activities that meets those needs;
- (c) Seek ways to integrate new knowledge, skills, and activities;
- (d) Select approved activities by which to earn continuing education hours;
- (e) Submit to the board, if applicable, a request for approval for continuing education activities not approved as required in Section 3(2)(b) of this administrative regulation;
- (f) Document attendance, participation in, and successful completion of continuing education activity;

(g) Maintain records of continuing education hours for five (5) years from the date of the offering of the continuing education activity; and

(h) If applicable, submit information from a continuing education course that has not been preapproved by providing to the board for review the information specified in Section 5(2) of this administrative regulation.

(3) The following items may be used to document continuing education activity:

- (a) Transcript;
- (b) Certificate;
- (c) Affidavit signed by the instructor;
- (d) Receipt for the fee paid to the sponsor; or
- (e) Written summary of experiences that are not formally or officially documented otherwise.

(4) Failure to comply with the provisions of this administrative regulation shall constitute a violation of KRS Chapter 329A and shall result in:

- (a) Refusal to renew licensure;
- (b) Suspension of licensure; or
- (c) Revocation of licensure.

Section 7. Carry-over of Continuing Education Hours Prohibited. Continuing education hours earned in excess of those required under Section 2 of this administrative regulation shall not be carried over into the immediately following licensure renewal period.

Section 8. Appeal of Denial of Continuing Education Hours. (1) If an application for approval of continuing education hours is denied, the licensee shall have the right to appeal the board's decision.

- (2) An appeal shall be:
  - (a) In writing;
  - (b) Received by the board within thirty (30) days after the date of the decision denying approval of continuing education hours; and
  - (c) Conducted in accordance with KRS Chapter 13B.

Section 9. Waiver or Extensions of Continuing Education. (1) On application, the board may grant a waiver or extension of the continuing education requirements or an extension of time within which to fulfill the requirements in the following cases:

- (a) Medical disability of the licensee;
  - (b) Illness of the licensee or an immediate family member;
  - (c) Death or serious injury of an immediate family member; or
  - (d) Active military duty.
- (2) A written request for waiver or extension of time involving medical disability or illness shall be:
- (a) Submitted by the licensee; and
  - (b) Accompanied by a verifying document signed by a licensed physician.
- (3) A waiver of or extension of time within which to fulfill the minimum continuing education requirements shall not exceed one (1) year.
- (4) If the medical disability or illness upon which a waiver or extension has been granted continues beyond the period of the waiver or extension, the licensee shall reapply for the waiver or extension.

Section 10. Continuing Education Requirements for Reinstatement or Reactivation of Licensure. (1) A person requesting reinstatement or reactivation of licensure shall submit evidence of receiving twelve (12) hours of continuing education within the two (2) year period immediately preceding the date that reinstatement or reactivation is requested

(2) The continuing education hours received in compliance with this section shall be in addition to the continuing education requirements established in Section 2 of this administrative regulation and shall not be used to comply with the requirements of that section.

Section 11. Proof of continuing education shall be required for all licensure cycles beginning in 2008. (32 Ky.R. 2390; 33 Ky.R. 728; eff. 10-6-2006; 35 Ky.R. 626; 1445; eff. 1-5-2009.)

**201 KAR 41:080. Complaint procedure.**

RELATES TO: KRS 329A.025(3)(g), (i)-(k), 329A.040(2)(a), 329A.060(2), (3)

STATUTORY AUTHORITY: KRS 329A.060(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 329A.060(1) states that the board shall promulgate administrative regulations regarding the receiving and investigating of complaints. This administrative regulation establishes procedures for the filing, evaluation, and disposition of administrative complaints.

Section 1. Definitions. (1) "Chair" means the chairman or vice-chairman of the board.

(2) "Charge" means a specific allegation contained in a formal complaint, as established in subsection (5) of this section, issued by the board alleging a violation of a specified provision of

KRS Chapter 329A, the administrative regulations promulgated thereunder, or any other state or federal statute or regulation.

(3) "Complaint" means any written allegation of misconduct by a licensed individual or other person which might constitute a violation of KRS Chapter 329A, the administrative regulations promulgated thereunder, or any other state or federal statute or regulation.

(4) "Complaint screening committee" means a committee consisting of up to two (2) members of the board appointed by the chair to review complaints, investigative reports, and to participate in informal proceedings to resolve a formal complaint. In addition to board members, the Executive Director of the Division of Occupations and Professions or another staff member may be appointed to assist the committee, but shall not have voting privileges.

(5) "Formal complaint" means a formal administrative pleading authorized by the board which sets forth charges against a licensed individual or other person and commences a formal disciplinary proceeding pursuant to KRS Chapter 13B or requests the court to take criminal or civil action.

(6) "Informal proceedings" means the proceedings instituted at any stage of the disciplinary process with the intent of reaching a dispensation of any matter without further recourse to formal disciplinary procedures under KRS Chapter 13B.

(7) "Investigator" means an individual designated by the board to assist the board in the investigation of a complaint or an investigator employed by the attorney general or the board.

Section 2. Receipt of Complaints. (1) A complaint:

(a) May be submitted by an:

1. Individual;
2. Organization; or
3. Entity.

(b) Shall be:

1. In writing; and
2. Signed by the person offering the complaint.

(c) May be filed by the board based upon information in its possession.

(2) Upon receipt of a complaint:

(a) A copy of the complaint shall be sent to the individual named in the complaint along with a request for that individual's response to the complaint. The individual shall be allowed a period of twenty (20) days from the date of receipt to submit a written response.

(b) Upon receipt of the written response of the individual named in the complaint, a copy of the response shall be sent to the complainant. The complainant shall have seven (7) days from receipt to submit a written reply to the response.

Section 3. Initial Review. (1) After the receipt of a complaint and the expiration of the period for the individual's response, the complaint screening committee shall consider the individual's response, complainant's reply to the response, and any other relevant material available and make a recommendation to the board. The board shall determine whether there is enough evidence to warrant a formal investigation of the complaint.

(2) If the board determines before formal investigation that a complaint is without merit, it shall:

(a) Dismiss the complaint; and

(b) Notify the complainant and respondent of the board's decision.

(3) If the board determines that a complaint warrants a formal investigation, it shall:

(a) Authorize an investigation into the matter; and

(b) Order a report to be made to the complaint screening committee at the earliest opportunity.

Section 4. Results of Formal Investigation; Board Decision on Hearing. (1) Upon completion of the formal investigation, the investigator shall submit a report to the complaint screening committee of the facts regarding the complaint. The complaint screening committee shall review the investigative report and make a recommendation to the board. The board shall

determine whether there has been a prima facie violation of KRS Chapter 329A or the administrative regulations promulgated thereunder and a complaint should be filed.

(2) If the board determines that a complaint does not warrant the issuance of a formal complaint, it shall:

- (a) Dismiss the complaint; and
- (b) Notify the complainant and respondent of the board's decision.

(3) In the case of a nonserious violation, the board shall follow the procedure established in KRS 329A.060(3).

(4) If the board determines that a complaint warrants the issuance of a formal complaint against the respondent, counsel for the board, in conjunction with the complaint screening committee, shall prepare a formal complaint which states clearly the charge or charges to be considered at the hearing. The formal complaint shall be reviewed by the board and, if approved, signed by the chair and served upon the individual as required by KRS Chapter 13B. The formal complaint shall be processed in accordance with KRS Chapter 13B.

(5) If the board determines that a person may be in violation of KRS 329A.015, it shall:

- (a) Order the individual to cease and desist from further violations of KRS 329A.015; or
- (b) Initiate action in circuit court pursuant to KRS 329A.025(3)(l) for injunctive relief to stop the violation of KRS 329A.015.

Section 5. Settlement by Informal Proceedings. (1) The board through counsel and the complaint screening committee may, at any time during this process, enter into informal proceedings with the individual who is the subject of the complaint for the purpose of appropriately dispensing with the matter.

(2) An agreed order or settlement reached through this process shall be approved by the board and signed by the individual who is the subject of the complaint and the chair.

(3) The board may employ mediation as a method of resolving the matter informally.

Section 6. Notice of Service of Process. A notice required by KRS Chapter 309 or this administrative regulation shall be issued pursuant to KRS Chapter 13B.

Section 7. Incorporation by Reference. (1) "Complaint Form and Instructions", (2006 Edition), is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Licensure for Private Investigators, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

#### **201 KAR 41:090. Code of ethics.**

RELATES TO: KRS 329A.025(2)(d)

STATUTORY AUTHORITY: KRS 329A.025(2)(d)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 329A.025(2)(d) requires the board to promulgate administrative regulations establishing a code of professional practice and conduct for private investigator licensees. This administrative regulation establishes the code of professional practice and conduct for private investigators.

Section 1. Proper Conduct of Practice. (1) The licensee shall at all times recognize the primary obligation to protect the health, safety, and welfare of the public in the performance of the licensee's professional duties.

(2) A licensee possessing knowledge of a violation, by another licensee of KRS Chapter 329A or any administrative regulation promulgated thereunder, shall report that violation to the board in writing and shall cooperate with the board in furnishing any information or assistance as the board may require.

(3) If the licensee becomes aware of a decision taken by an employer or client, against the licensee's advice, which violates applicable federal, state, or local laws and regulations or which may affect adversely the health, safety, or welfare of the public, the licensee shall:

- (a) Refuse to consent to the decision; and

(b) In circumstances where the licensee reasonably believes that other decisions will be made, notwithstanding the licensee's objections, terminate services with reference to that employer or client.

Section 2. The Code of Ethics. A private investigator shall:

(1) Adhere to the guidelines, policies, and procedures of the Kentucky Private Investigators Act in KRS Chapter 329A and the administrative regulations contained in 201 KAR Chapter 41.

(2) Practice with honesty, sincerity, integrity, fidelity, morality, and good conscience in all dealings with clients, other investigators, as well as other professions.

(a) The licensee shall perform his duties in accordance with all local, state, and federal laws, as well as adhere to the highest moral principles of the profession.

(b) The licensee shall not engage in prohibited acts as set forth in KRS 329A.055.

(3) Provide only those services for which the licensee is qualified to perform.

(a) The licensee shall not falsify or permit misrepresentation of his or his associates' academic or professional qualifications.

(b) The licensee shall not misrepresent or exaggerate his degree of responsibility in or for the subject matter of prior assignments.

(c) Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employer, employees, associates, joint ventures, or his or their past accomplishments with the intent and purpose of enhancing his qualifications and his work.

(3) All advertising shall be truthful, not misleading.

(4) Not accept any assignment that creates a personal or business conflict of interest.

Regarding conflicts of interest:

(a) The licensee shall not accept compensation, financial or otherwise, from more than one (1) party for services on or relating to the same investigation, set of circumstances, court case, or issues, unless all interested parties consent in writing after full disclosure by the licensee;

(b) The licensee shall avoid all known conflicts of interest with his employer or client and shall promptly inform his employer or client of any business association, interest, or circumstance which could influence his judgment or the quality of his services. When a conflict becomes apparent, the licensee shall disclose the circumstances to the licensee's employer and client.

(c) The licensee shall take reasonable steps to ascertain the existence of potential conflicts of interests among his employers and clients. A conflict exists when a private investigator, because of some personal interest, finds it difficult to devote himself with loyalty and singleness of purpose to the best interest of his client or employer.

(d) A private investigations company shall be responsible for avoiding conflicts of interest between:

1. The company and the clients of any private investigator(s) affiliated with the company;

2. The clients of one (1) private investigator affiliated with the company and the clients of any other private investigator affiliated with the company.

(e) A licensee or employee of a licensee shall not contact or cause to be contacted any individual under investigation for the purpose of revealing confidential information to that individual. Any contact with a subject being investigated, whether intentional or unintentional, shall be made a part of the investigative file of such case.

(f) The licensee shall ensure that all clients are dealt with justly and impartially regardless of social, political, racial, ethnic, or religious considerations, economic status, or physical characteristics.

(5) Preserve client confidentiality under any and all circumstances unless required otherwise by law.

(a) The licensee shall safeguard information and exercise due diligence to prevent improper disclosure of that information.



(b) Any licensee or registered employee may divulge to any law enforcement officer or prosecuting attorney or his representative, any information the licensee may acquire as to any criminal offense, but he shall not divulge to any other person, except as the licensee may be required by law so to do, any information acquired by the licensee, except at the direction of the employer or client for whom the information was obtained.

(c) A licensee or registered employee of a licensee, shall not knowingly make any false report to his employer or client for whom information was being obtained.

(d) Client confidentiality shall not:

1. Affect in any way the licensee's obligation to comply with a validly-issued and enforceable subpoena or summons;

2. Prohibit review of a licensee's professional practice by the Kentucky Board of Licensure for Private Investigators; or

3. Prohibit a licensee from utilizing any such relevant information in the defense of a claim asserted against a licensee.

(6) Make all reporting based upon truth and fact and shall express honest opinions on that basis.

(a) Upon the request of a client in good standing, a licensee shall submit a written report to that client or his designee.

(b) A written report shall include all relevant information obtained during the investigation.

(7) Explain to the full satisfaction of all clients any fees and charges associated with his or her case.

(a) The licensee shall not bill a client for services or expenses which have not been provided or incurred.

(b) A complete and comprehensive itemized statement of services and expenses shall be provided to the client upon request.

(8) Make certain that any obligations and responsibilities in contracts and mutual agreements shall be met in a timely manner, and the principle of appropriate and adequate compensation for those engaged in investigative work shall not be abused.

(9) Assist when necessary, law enforcement officers and all other duly-constituted authorities.

(10) Ensure that the licensee's conduct does not bring discredit to the investigative profession. A licensee may be deemed by the board to be guilty of misconduct in his professional practice if:

(a) He is convicted in a court of competent jurisdiction of a felony or misdemeanor which the board finds reflects unfavorably on the licensee's fitness for licensure; or

(b) His license or certificate of registration to practice private investigations in another jurisdiction is revoked, suspended, or voluntarily surrendered as a result of disciplinary proceedings.

(11) Refrain from maliciously injuring the professional reputation or practice of colleagues.